THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.4552 OF 2001

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Between;

A.Narayana son of Gangaram.

…Petitioner

vs.

General Manager, Telecom District, Nizamabad and another.

….Respondents.

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THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.4552 OF 2001

ORAL ORDER

Heard Mr.V.Jogayya Sarma, learned counsel for the petitioner and Smt.Sarada learned counsel for the respondents.

The petitioner seeks interdiction of further proceedings in the disciplinary enquiry pursuant to the memo dated 04-09-2000 issued by the 1st respondent communicating a charge memo, in substance, alleging that the petitioner contravened the provisions of Rule. 3.1(i)(ii)(iii) of the Central Civil Services (Conduct) Rules,1964.

On 01-07-1978 the petitioner was issued a caste certificate by the Tahsildar, Armoor, Nizamabad District certifying him as belonging to a Scheduled Tribe Community "kammara". On the basis of the said certificate the petitioner joined service in the department of Telecommunications-since redesignated as the Bharat Sanchar Nigam Limited (BSNL), in the year 1980.

The Collector, Nizamabad by show-cause notice dated 03-11-1990 called upon the petitioner to explain why the caste certificate issued by the Tahsildar be not cancelled. After a process of enquiry, the caste certificate was cancelled by the Joint Collector by the proceedings dated 22-02-1993. The petitioner assailed the orders of the Joint Collector dated 22-02-1993 by way of W.P.No.3206 of 1993. By the judgment of this Court dated 28-10-2004 the writ petition was allowed and the order of the Joint Collector dated 22-02-1993 was quashed.

During the pendency of the W.P.No.3206 of 1993 before this Court, the impugned charge memo dated 04-09-2000 was issued by the 1st respondent. The memo specified four (4) articles of charges. The charges broadly were that the petitioner was appointed as Technical Officer against "S.T." reserved vacancy on the basis of a false caste certificate issued in his favour by Tahsildar, Armoor, Nizamabad District which was subsequently found incorrect and thus the petitioner obtained pubic employment on the basis of a misrepresentation as to his Scheduled Tribe status; that the petitioner never denied being a Scheduled Tribe candidate; that he failed to intimate the employer about the writ petition (W.P.No.3206 of 1993) filed in the High Court and thus failed to comply with the guidelines issued by the Government of India, Ministry of Home Affairs, dated 25-02-1955; and that he obtained seniority over others by virtue of his fraudulent community status.

Responding to the charge memo the petitioner submitted his explanation requesting dropping of the proceedings or in the alternative deferring of the enquiry pending decision in W.P.No.3206 of 1993. As there was no response to the petitioner's representation, he filed this writ petition for the relief already adverted to.

Consequent on the judgment of this Court dated 28-10-2004 allowing W.P.No.3206 of 1993 and on the basis of the said judgment, the petitioner filed W.P.No.15395 of 2005 again questioning the charge memo impugned herein and aggrieved by the continuance of disciplinary proceedings notwithstanding the quashing of the Joint Collector's orders by the judgment of this Court in W.P.No.3206 of 1993. By the judgment dated 27-09-2005 this Court dismissed the W.P.No.15395 of 2005 and held that as the petitioner could sensitize the enquiry officer as to the correct legal position consequent on the judgment of this Court in W.P.No.3206 of 1993, the petitioner should pursue the said course and that no case is made out for interdicting the enquiry proceedings by way of mandamus. This Court held that if the petitioner submits a representation to the disciplinary authority or the enquiry officer, such representation is bound to be considered and an appropriate decision taken by the respondents, either to proceed with the departmental enquiry or discontinue or drop the same depending on whether the respondents would like to pursue the issue of petitioner's caste or community certificate independently or only on the basis of the cancellation of the certificate by the Joint Collector (which cancellation has been invalidated by this Court in W.P.No.3206 of 1993).

It is stated by Sri Jogayya Sarma, learned counsel for the petitioner that pursuant to the judgment of this Court in W.P.No.15395 of 2005 the petitioner submitted his representation dated 25-08-2005 to the enquiry officer as also the disciplinary authority and that a decision is not yet taken on his representation.

In view of the judgment of this Court in W.P.No.15395 of 2005, no subsisting grievance remains to be adjudicated. In this writ petition too the petitioner assails the pursuit of disciplinary proceedings against him pursuant to the charge memo dated 04-09-2000, an issue already adjudicated upon in W.P.No.15395 of 2005.

In view of the analysis above, the writ petition is dismissed as infructuous in view of the judgment of this Court dated 27-09-2005 in W.P.No.15395 of 2005. No order as to costs.

GODA RAGHURAM,J

9TH DECEMBER 205

***TSNR**